



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0433

Introduced 1/26/2007, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

New Act

Creates the Electronic Scrap Recycling Act. Requires the creation of a not-for-profit, public-benefit corporation to manage the State collection, transportation, and recycling system for electronic devices that are covered under the Act. Sets forth the composition, duties, and responsibilities of the not-for-profit, public-benefit corporation. Prohibits the sale of those covered electronic devices by a manufacturer who (i) is not in compliance with the Act or (ii) fails to permanently label the device with the manufacturer's brand. Requires certain manufacturers of covered electronic devices to register with the not-for-profit, public-benefit corporation. Requires audits of covered electronic device retailers and the not-for-profit, public-benefit corporation. Imposes a fee on manufacturers of covered electronic devices, and sets forth procedures for calculating the fee. Prohibits the sale of any covered electronic devices containing mercury, cadmium, lead, hexavalent chromium, polybrominated biphenyls, or polybrominated diphenyl ethers. Requires the not-for-profit, public-benefit corporation to develop a minimum level of environmental design for all covered electronic devices sold in the State. Allows certain manufacturers to establish a self-recycling program. Prohibits the disposal of the devices into a landfill or by incineration. Requires retailers of covered electronic devices to post educational material provided by the not-for-profit, public-interest corporation. Requires the recyclers of covered electronic devices to follow federal recycling guidelines. Contains other provisions. Effective immediately except that specified Sections apply and become operative on January 1, 2008.

LRB095 04353 CMK 24396 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Electronic Scrap Recycling Act.

6 Section 5. Purpose.

7 (1) The General Assembly finds:

8 (a) that discarded electronic devices, known as
9 E-scrap, is the fastest growing portion of materials found
10 as discards in the waste stream with more than 100,000,000
11 cell phones discarded annually and 160,000 televisions and
12 computers every day;

13 (b) that hazardous materials such as lead, mercury,
14 cadmium, hexavalent chromium and other chemicals are found
15 in many electronic devices and, if improperly managed, may
16 pose environmental risks at the products' end-of-life;

17 (c) that many electronic devices that become obsolete
18 for a given user can in fact be refurbished and redeployed
19 for reuse to a secondary user that can utilize the devices
20 to enhance educational and technological capabilities of
21 Illinois residents;

22 (d) that valuable commodities including steel, glass,
23 plastics, and precious metals can be successfully

1 recovered and recycled, thus conserving natural resources
2 and energy, as well as reducing air and water pollution,
3 and greenhouse gas emissions;

4 (e) that the State has adopted a hierarchy to manage
5 wastes which places reuse and recycling as the preferred
6 management strategy over incineration and landfill
7 disposal options;

8 (f) that the Illinois Recycling Economic Information
9 Study of 2001 estimates that the total economic impact of
10 establishing statewide recycling and reuse programs for
11 E-scrap may result in the creation of nearly 4,000 new jobs
12 and \$740 million in annual receipts;

13 (g) that the State-appointed Computer Equipment
14 Disposal and Recycling Commission issued a final report in
15 May 2006 recommending legislative, regulatory, or other
16 actions to properly address E-scrap management.

17 (2) It is the purpose of this Act to establish the Illinois
18 Materials Management and Financing Authority, a not-for-profit
19 public benefit corporation, to develop and manage an
20 environmentally sound statewide system for the collection and
21 recycling of electronic devices in accordance with State
22 policy.

23 Section 10. Definitions. When used in this Act, unless the
24 context clearly indicates otherwise, the following terms have
25 the meanings ascribed to them in this Section:

1 "Agency" means the Illinois Environmental Protection
2 Agency.

3 "Authority" means the Illinois Materials Management and
4 Financing Authority as defined in Section 20 of this Act.

5 "Basel Convention" means the Basel Convention on the
6 Control of Transboundary Movements of Hazardous Wastes and
7 Their Disposal and is a global agreement ratified by over 100
8 member countries addressing the problems and challenges posed
9 by hazardous waste. It aims to minimize the generation of
10 hazardous wastes in terms of quantity and hazardousness, to
11 dispose of them as close to the source of generation as
12 possible, and to reduce the movement of hazardous wastes.

13 "Broker" is a person who engages in the buying, selling,
14 and trading of CEDs.

15 "Cathode ray tube" or "CRT" means a vacuum tube or picture
16 tube used to convert an electronic signal into a visual image
17 (e.g. a computer monitor).

18 "Cellular telephone" means a hand-held mobile
19 radiotelephone, normally equipped with a viewing screen less
20 than 4 inches when measured diagonally, for use in an area
21 divided into small sections, each with its own short-range
22 transmitter/receiver.

23 "Computer" means an electronic, magnetic, optical,
24 electrochemical, or other highspeed data processing device
25 performing logical, arithmetic, or storage functions, and may
26 include both a computer central processing unit and a monitor,

1 but does not include an automated typewriter, electronic
2 printer, portable hand-held calculator, portable digital
3 assistant (PDA), or other similar device.

4 "Computer peripheral" means a device that is external to
5 but connected with and controlled by a computer central
6 processing unit, such as a zip drive, scanner, cable, mouse,
7 keyboard or similar device.

8 "Covered electronic device or CED" means a computer,
9 portable computer, electronic printer, computer peripheral,
10 video display device, video display device peripheral,
11 facsimile machine, cellular telephone, portable calculator,
12 PDA, and electronic encoding/decoding audio data storage and
13 retrieval device.

14 "Demanufacturing" means the process of separating CEDs
15 into metallic and non-metallic parts that can be recycled or
16 reused.

17 "Design for environment" means: (1) an environmental
18 manufacturing process that reduces the level of toxic materials
19 utilized in the manufacturing and production of a product and
20 (2) designing products that are easier to disassemble and
21 recycle.

22 "Dismantling" means the manual demanufacturing of CEDs to
23 reuse or recycle components and commodities contained therein.

24 "Downstream recycler" means a person that receives CEDs
25 from a recycler or broker for additional processing or
26 disposition.

1 "E-cycling" is a generic term applied to electronic devices
2 involving the process of collecting, demanufacturing,
3 refurbishing, or recycling electronic discards.

4 "Electronic device" means an instrument that accomplishes
5 its purpose by controlling the flow of electrons through
6 inputs, processing, and outputs.

7 "E-scrap" is an informal name for electronic products at
8 the end of their useful life. The term is generally applied to
9 consumer and business electronic equipment and includes, but is
10 not limited to, computers and their associated peripheral
11 equipment, as well as televisions, video cassette recorders,
12 digital video disc players, stereos, copiers, facsimile
13 machines, and cellular phones.

14 "Legacy CEDs" means those CEDs that are no longer
15 manufactured or sold, but whose original manufacturer is still
16 conducting business, or whose original manufacturer's
17 successor in interest can be identified.

18 "Manufacturer" means any person who, on or after the
19 effective date of this Act, and irrespective of the selling
20 technique used, including by means of remote sale:

21 (1) manufactures CEDs under its own brand for sale in
22 this State;

23 (2) manufactures CEDs for sale in this State without
24 affixing a brand;

25 (3) resells in this State CEDs produced by other
26 suppliers under its own brand or label; or

1 (4) imports or exports CEDs into the United States that
2 are sold in this State. If, however, a company from which
3 an importer purchases the merchandise has a United States
4 presence, assets, or both, that company (and not the
5 importer) shall be deemed to be the manufacturer.

6 "Monitor" means a separate visual display component of a
7 computer, either sold separately or together with a computer
8 central processing unit box. A monitor is made up of: (i) a
9 cathode ray tube; liquid crystal display; gas plasma; digital
10 light processing; or other image projection technology greater
11 than 4 inches when measured diagonally; (ii) a case; (iii)
12 interior wires and circuitry; (iv) a cable to the central
13 processing unit; and (v) a power cord.

14 "Orphan CEDs" means those CEDs that are returned for
15 recycling or reuse for which the manufacturer cannot be
16 identified or is no longer conducting business and has no
17 successor in interest.

18 "Person" means any individual, partnership, cooperative
19 enterprise, unit of local government, institution, corporation
20 or agency, or any other legal entity whatsoever which is
21 recognized by law as the subject of rights and duties.

22 "Portable computer" means a computer and video display
23 greater than 4 inches in size when measured diagonally that can
24 be carried as one unit by an individual (e.g. a laptop
25 computer).

26 "Processing" means the mechanical demanufacturing of CEDs

1 to recover various commodities contained therein.

2 "Recycler" means a person that engages in recycling of
3 CEDs.

4 "Recycling" means any process by which CEDs that would
5 otherwise be disposed of or discarded are collected, separated,
6 demanufactured, or processed and are returned to the economic
7 mainstream in the form of raw materials or products.

8 "Recycling facility" means all contiguous land,
9 structures, other appurtenances, and improvements used for
10 demanufacturing, dismantling, or processing of CEDs for
11 recycling or reuse. A recycling facility does not include a
12 location to refurbish CEDs.

13 "Refurbish" means a process by which non-functioning or
14 damaged electronic devices or products are returned to a
15 functioning state.

16 "Retailer" means a person who owns or operates a business
17 that sells new CEDs in this State by any means to an end user.

18 "Reuse" means the recovery or reapplication of a CED in a
19 manner that retains its original form or identity and does not
20 involve processes that significantly alter its original
21 condition or its intended purpose.

22 "Video display device" means an output surface having a
23 viewable area greater than 4 inches when measured diagonally
24 that displays moving graphical images or a visual
25 representation of image sequences or pictures, showing a number
26 of quickly changing images on a screen in fast succession to

1 create the illusion of motion, including, if applicable, a
2 device that is an integral part of the display that produces
3 the moving image on the screen. Displays typically use a CRT,
4 liquid crystal display, gas plasma, digital light processing,
5 or other image projection technology.

6 "Video display device peripherals" means a device that is
7 external to, but connected to, a video display device for the
8 purpose of viewing media such as video game consoles, video
9 cassette recorders/players, digital video disk players, or
10 similar devices.

11 Section 15. Scope of covered electronic devices (CEDs).
12 This Act covers the first sale of new CEDs. This Act does not
13 cover any of the following:

14 (1) A CED that is a part of a motor vehicle or any
15 component part of a motor vehicle assembled by, or for, a
16 vehicle manufacturer or franchised dealer, including
17 replacement parts for use in a motor vehicle.

18 (2) A CED that is functionally or physically a part of
19 a larger piece of equipment designed and intended for use
20 in an industrial, commercial, agricultural, or medical
21 setting, including diagnostic, monitoring, or control
22 equipment.

23 (3) A CED that is contained within a clothes washer,
24 clothes dryer, refrigerator, refrigerator and freezer,
25 microwave oven, conventional oven or range, dishwasher,

1 room air conditioner, dehumidifier, water pump, sump pump,
2 or air purifier.

3 (4) Small consumer electronic devices including
4 wristwatches, timers and clocks; sonar and fish locators;
5 radar detectors; thermometers; hand-held calculators;
6 levels, tape measures, stud finders, and other electronic
7 building supplies; garage door openers; games; range
8 finders; and other similar devices.

9 The Authority shall, on an annual basis, review the
10 electronics marketplace and shall be empowered to determine
11 which, if any, additional products shall be added to or deleted
12 from the list of CEDs defined in this Section.

13 Section 20. Recycling system management.

14 (a) The Illinois Materials Management and Financing
15 Authority, a not-for-profit, public benefit corporation, is
16 established as a public body corporate and politic,
17 constituting an instrumentality of the State exercising
18 essential governmental functions. The Authority shall be
19 created by January 1, 2008, with all administrative personnel
20 as approved by the Authority board of directors hired, and
21 shall be solely responsible for managing a cost-efficient and
22 environmentally sound State collection, transportation, and
23 recycling system for CEDs. The Authority will be funded via the
24 fees described in Section 25 of this Act. The Authority will be
25 organized as follows:

1 (1) The Authority is governed by a 15-member board of
2 directors, the chair of which shall be appointed by the
3 Governor. One member of the board of directors shall be
4 appointed by the Speaker of the House of Representatives,
5 one member appointed by the Minority Leader of the House of
6 Representatives, one member appointed by the President of
7 the Senate, and one member appointed by the Minority Leader
8 of the Senate. The remaining 10 members shall be comprised,
9 first, of 6 participating manufacturers, appointed by the
10 director of the Agency, and must include both television
11 and computer manufacturers. Three of the 6 manufacturer
12 board positions are reserved for representatives of the top
13 3 brand owners by return share of CEDs, and 3 board
14 positions are reserved for representatives of other
15 brands, including at least one board position reserved for
16 a manufacturer who is also a retailer selling its own
17 private label. The remaining 4 members shall be comprised
18 of 2 representatives selected by the Illinois
19 Environmental Council, one selected by the Illinois
20 Recycling Association, and one by the Institute of Scrap
21 Recycling Industries, Inc.

22 (2) By September 1, 2007, the Agency must determine the
23 return share of CEDs used to determine the top 3 brand
24 owners for purposes of board appointments.

25 (3) By September 1, 2007, the Agency must determine an
26 initial registration fee for all manufacturers and inform

1 manufacturers of this fee by October 1, 2007.

2 (4) The board shall select from its membership such
3 other officers besides the chair as it deems appropriate.

4 (5) A majority of the board constitutes a quorum.

5 (6) The directors of the Department of Commerce and
6 Economic Opportunity and the Illinois Environmental
7 Protection Agency shall serve as ex officio members. The
8 State agency directors serving in ex officio capacity may
9 each designate an employee of their respective departments
10 to act on their behalf in all respects with regard to any
11 matter to come before the Authority. Ex officio
12 designations must be made in writing and communicated to
13 the chair of the Authority.

14 (7) The board shall create its own bylaws in accordance
15 with the laws of the State.

16 (8) By July 1, 2008, the board shall submit to the
17 Agency a business plan that:

18 (A) includes an organizational structure;

19 (B) outlines the Authority's projected operational
20 revenues and expenses for the 5 years beginning January
21 1, 2009; and

22 (C) proposes changes, if any, to the registration
23 fee for all manufacturers calculated to cover the
24 Authority's cost of operation.

25 (9) Any member of the board may be removed for
26 misfeasance, malfeasance, or willful neglect of duty after

1 notice and a public hearing, unless the notice and hearing
2 are expressly waived in writing by the affected member.

3 The members of the board shall serve without compensation
4 but are entitled to reimbursement, solely from the funds of the
5 Authority, for expenses incurred in the discharge of their
6 duties under this Act.

7 (b) Specific responsibilities of the Authority shall be to:

8 (1) Organize, administer, and ensure that electronics
9 collection opportunities are available throughout the
10 State and in such a manner as to be convenient, to the
11 maximum extent feasible, to all consumers in the State.

12 (2) Encourage the use of existing collection and
13 consolidation infrastructures for handling CEDs to the
14 extent that this infrastructure is accessible on a regular
15 and ongoing basis to Illinoisans, is cost effective, and
16 meets the environmentally sound management requirements
17 described in this Act. The Authority shall, through
18 contractual agreement, compensate for the collection and
19 recycling of CEDs, by qualified collectors and recyclers
20 whether by government, for-profit corporations, non-profit
21 corporations, retailers, manufacturers, or any other
22 party, for the reasonable costs associated with these
23 activities. These activities shall be audited annually. In
24 order to strengthen the market for Illinois recycling
25 companies, the Authority shall not pay for costs associated
26 with the use of prison labor.

1 (3) Maintain a list of all manufacturers in compliance
2 with all reporting, financial, and other requirements of
3 this Act and post the list on an Internet website;
4 furthermore, forward a list of manufacturers not in
5 compliance to the Attorney General's office for further
6 enforcement action as provided in this subsection. Two
7 years after the effective date of this Act, no manufacturer
8 may sell a CED in Illinois unless the manufacturer is in
9 compliance with the provisions of this Act. Further, 2
10 years after the effective date of this Act, no manufacturer
11 or retailer may sell any CED in Illinois unless the CED is
12 labeled with the manufacturer's brand, and that label is
13 permanently affixed and is readily visible.

14 (4) By July 1, 2008, set the cost per pound for
15 collection, transportation, and recycling of CEDs in order
16 to reasonably approximate market costs for these services,
17 which cost per pound is used to calculate the fee required
18 by paragraph 4 of Section 25 of this Act. Beginning January
19 1, 2010, and annually thereafter, the Authority may adjust
20 such cost per pound in order to reasonably approximate
21 market costs for the collection, transportation, and
22 recycling of CEDs. Prior to setting or adjusting the cost
23 per pound, the Authority shall notify the public, including
24 all manufacturers registered under paragraph 1 of Section
25 25 of this Act, of the proposed cost per pound and provide
26 a public comment period. By the November 1 prior to the

1 program year for which the revised cost per pound is to be
2 used, the Authority shall notify all registered
3 manufacturers of any adjustments to the cost per pound, as
4 well as any adjustments to the registration fee.

5 (5) Determine the return share for each program year
6 for each manufacturer by dividing the weight of CEDs
7 identified for each manufacturer by the total weight of
8 CEDs identified for all manufacturers. For the first
9 program year, the return share of CEDs identified for each
10 manufacturer shall be based on the best available CED
11 public return share data from the United States, including
12 data from other states. For the second and each subsequent
13 program year, the return share of CEDs identified for each
14 manufacturer shall be based on the most recent samplings of
15 CEDs conducted in this State as described in paragraph 8 of
16 this Section, and sampling conducted by manufacturers
17 choosing the self-recycling option as described in Section
18 50 of this Act.

19 (6) Determine the return share in weight for each
20 program year for each manufacturer for whom a return share
21 is determined pursuant to paragraph 5 of this Section by
22 multiplying the return share for each such manufacturer by
23 the total weight in pounds of CEDs, including legacy and
24 orphan devices, collected from covered entities the
25 previous program year. For the first program year, the
26 total weight in pounds of CEDs shall be based on the best

1 available public weight data from the United States,
2 including data from other states. For the second and each
3 subsequent program year, the total weight in pounds of CEDs
4 shall be based on the total weight of CEDs, including
5 legacy and orphan devices, as described in paragraph 8 of
6 this Section, and sampling conducted by manufacturers
7 choosing the self-recycling option as described in Section
8 50 of this Act.

9 (7) By July 1, 2008, the Authority shall provide each
10 manufacturer for whom a return share is determined pursuant
11 to paragraph 5 of this Section with its return share and
12 its return share in weight for the year beginning January
13 1, 2009. Beginning on February 15, 2010 and by February 15
14 of each year thereafter, the Authority shall provide each
15 manufacturer for whom a return share is determined pursuant
16 to paragraph 5 of this Section with its return share and
17 its return share in weight for the second and subsequent
18 program years.

19 (8) By February 1, 2010, and by February 1 of each
20 subsequent program year:

21 (A) Complete an auditable, statistically
22 significant sampling of CEDs collected by the
23 Authority during the previous program year. The
24 sampling information collected shall consist of a list
25 of brands of CEDs and the weight of CEDs that are
26 identified for each brand. The Authority's sampling

1 shall be conducted in accordance with a procedure
2 established by the Authority and may be conducted by a
3 third-party organization, including a recycler, to be
4 determined by the Agency. The Authority may, at its
5 discretion, be present at the sampling and may audit
6 the methodology and the results of the third-party
7 organization. The costs associated with the sampling
8 shall be considered one of the Authority's costs of
9 doing business; and

10 (B) Determine the total weight of CEDs, including
11 orphan devices, collected by the Authority during the
12 previous program year.

13 (9) Receive fees from manufacturers or their agents for
14 the sole purpose of fulfilling its responsibilities under
15 this Act.

16 (10) Organize and coordinate public outreach in
17 association with the primary education responsibility
18 charged to retailers, and any secondary education plan
19 established by manufacturers, recyclers, and the State.

20 (11) Beginning in 2010, convene on an annual or
21 biannual basis an Electronic Product Life-cycle and
22 Recycling E-Scrap Assembly, composed of manufacturers and
23 retailers of CEDs, participants in outreach, collection,
24 processing and disposal activities of the Authority,
25 including persons who have signed up for regular
26 communication, and members of the General Assembly and

1 local public bodies to review and prepare recommendations
2 on electronic product life-cycle goals and outcomes of the
3 Authority. The Assembly shall conduct separate reviews of
4 and make recommendations on the outreach and collection
5 processes, and the recycling and life-cycle management
6 processes, and shall be addressed by a nationally or
7 internationally recognized leader in electronic product or
8 environmental life-cycle management, with comments on such
9 State of Electronic Product Life-cycles in Illinois by the
10 public officials and others who are directors of the
11 Authority.

12 (12) Prepare a business plan every 3 years that
13 establishes per capita collection and recycling goals for
14 each manufacturer based on an overall goal for the State
15 and a proportionate share for each manufacturer as
16 calculated by the formula in Section 25 of this Act.

17 (13) Identify any necessary State actions to expand the
18 collection opportunities to achieve the per capita
19 collection and recycling goals.

20 (14) Report to the Governor and the General Assembly at
21 least annually on the implementation of the system during
22 the previous calendar year. The report will also be posted
23 on the Authority's website. The report must include:

24 (A) A list of all parties participating in the
25 system whom the Authority has designated as approved to
26 receive payments, the amount of payments it has made to

1 those parties, and the purpose of those payments.

2 (B) The total number and weight of CEDs collected
3 in the State the previous year as reported to the
4 Authority.

5 (C) Progress toward achieving the overall annual
6 total recovery and recycling goals described in the
7 business plan.

8 (D) The total amount of fees collected.

9 (E) A summary of funds expended by category:

- 10 (i) Education
- 11 (ii) Administration
- 12 (iii) Collection
- 13 (iv) Transportation
- 14 (v) Recycling
- 15 (vi) Disposal
- 16 (vii) Other

17 (F) Any surplus funds carried forward.

18 (G) A complete listing of all collection sites and
19 the amount of material collected at each site.

20 (H) An evaluation of the effectiveness of the
21 education and outreach program.

22 (15) Be fully audited by the Auditor General of the
23 State at the end of each calendar year, with that audit
24 report submitted to the General Assembly.

25 (16) Maintain a website and toll-free number complete
26 with up-to-date listings of where consumers can bring CEDs

1 for recycling.

2 Section 25. Basic fee mechanism.

3 (a) Prior to January 1, 2008, all manufacturers shall
4 register with the Authority and pay to the Authority the
5 initial registration fee described in paragraph 3 of Section 20
6 of this Act. Thereafter, if a manufacturer has not previously
7 filed a registration, the manufacturer shall file a
8 registration with the Authority prior to any offer for sale for
9 delivery in the State of the manufacturer's new CEDs. Any
10 manufacturer to whom the Authority provides notification of a
11 return share and return share in weight pursuant to paragraph 7
12 of Section 20 of this Act and who has not previously filed a
13 registration shall file a registration with the Authority
14 within 30 days of receiving such notification.

15 (b) Each manufacturer who is registered shall submit an
16 annual renewal of the manufacturer's registration to the
17 Authority and pay to the department the registration fee
18 described in paragraph 8 of Section 20 of this Act by January 1
19 of each program year.

20 (c) The registration and each renewal shall include a list
21 of all of the manufacturer's brands of CEDs and shall be
22 effective on the second day of the succeeding month after
23 receipt by the Authority of the registration or renewal.

24 (d) By February 1, 2010, each manufacturer to whom the
25 Authority provides, by July 1, 2008, a return share in weight

1 that is greater than zero shall:

2 (1) Submit an additional fee to the Authority based on
3 its return share in weight of CEDs for the program year
4 beginning January 1, 2009. The fee shall be calculated by
5 multiplying the manufacturer's return share in weight by
6 the cost per pound for collection, transportation, and
7 recycling of CEDs determined by the Authority pursuant to
8 paragraph 4 of Section 20 of this Act;

9 (2) Pursuant to Section 50 of this Act, submit an
10 application to the Authority demonstrating its strategy to
11 collect and recycle a total weight of product equivalent to
12 what would be collected and recycled under the Authority's
13 plan; or

14 (3) Each manufacturer to whom the Authority provides,
15 by February 15, 2010, or by February 15 of any year
16 thereafter, a return share in weight that is greater than
17 zero shall, by March 15 of that year, comply with
18 subparagraph 1 or 2 of this subsection (d).

19 Section 30. Orphan products. The Authority shall, in the
20 development of its fee mechanism, ensure that orphan products
21 are apportioned fairly by the formula described in Section 25
22 of this Act.

23 Section 35. Legacy products. Legacy manufacturers shall be
24 responsible for their equivalent share of returned CEDs and

1 also their share of orphan products as defined in Section 30 of
2 this Act.

3 Section 40. Restrictions on hazardous substances. Within
4 one year after the effective date of this Act, manufacturers
5 may not place on the market in this State any CEDs that exceed
6 the maximum concentration values established for lead,
7 mercury, cadmium, hexavalent chromium, polybrominated
8 biphenyls, and polybrominated diphenyl ethers under the RoHS
9 Directive 2002/95/EC of the European Parliament and Council and
10 any amendments thereto.

11 Section 45. Fee reduction for manufacturers designing for
12 environment. Manufacturers may apply for a reduced fee based on
13 improvements to their CEDs that make the products easier to
14 recycle, less hazardous, or both. Within one year after the
15 effective date of this Act, the Authority, working with the
16 Agency or an advisory board established by the Authority and
17 whose the members shall be approved by the Agency, shall
18 develop a minimum level of environmental design for all CEDs
19 being sold in the State. This minimum level of design shall be
20 based on scores from the Electronic Products Environmental
21 Assessment Tool, whose minimum criteria meets the standards set
22 forth in Section 40 of this Act. Thereafter, on an annual
23 basis, manufacturers may apply for a permanent reduction in the
24 per-unit fee for a CED that will take effect the following

1 year. The application shall be based on a design and production
2 change that will go beyond the minimum level of environmental
3 design and significantly improve the product's recyclability
4 or reduce the health risk posed by the materials in the unit,
5 as judged exclusively by either the Agency or the advisory
6 board established by the Authority. The fee reduction shall be
7 revoked if the Agency or the advisory board determine that the
8 design or production modification leading to the reduction has
9 been reversed or materially altered to the detriment of
10 recyclability and hazardousness in a future year. A fee
11 reduction guide shall be developed by the Authority within one
12 year after the effective date of this Act.

13 Section 50. Self-recycling.

14 (a) Manufacturers may choose not to participate in the
15 State recycling system operated by the Authority and instead
16 operate their own program for the collection and recycling of
17 CEDs. To be eligible for the self-recycling option, a
18 manufacturer must not be a new entrant, defined as: (1) a
19 manufacturer of televisions, television peripherals, or both,
20 or fax machines, that have been sold in the State for less than
21 10 years or (2) a manufacturer of desktop computers, laptop and
22 portable computers, computer monitors, computer peripherals,
23 cellular telephones, MP3 players, or PDAs that have been sold
24 in the State for less than 5 years. A manufacturer of both
25 televisions and computers or a manufacturer of both televisions

1 and computer monitors, however, that is deemed a new entrant
2 under either only (1) or (2) of this paragraph is not
3 considered a new entrant for purposes of this Section.

4 A manufacturer choosing to establish its own collection and
5 recycling program is required to submit an application to the
6 corporation every 3 years demonstrating its strategy to collect
7 and recycle a total weight of product equivalent to what would
8 be collected and recycled under the corporation's plan, and
9 shall include its share of orphan products. Manufacturers
10 qualifying for the self-recycling option shall not have a fee
11 assessed on CEDs or be compelled to participate in the
12 corporation's program. A manufacturer applying for
13 self-recycling status may apply alone or as a group in
14 collaboration with other manufacturers.

15 A manufacturer's application shall include all of the
16 following elements:

17 (1) Description of the systems for the collection,
18 transporting, and processing of CEDs.

19 (2) Service providers for the collection,
20 transportation, and processing of CEDs.

21 (3) Names of recycling companies meeting the
22 requirements of Section 65 of this Act that are
23 headquartered in Illinois to which the manufacturer will
24 send its CEDs for processing (Illinois-based recycling
25 companies are preferred provided that the manufacturer
26 does not operate its own recycling plants elsewhere in the

1 United States).

2 (4) Description of accessibility of recycling service
3 to all citizens of the State.

4 (5) Descriptions of accounting and reporting systems
5 that will be employed to track progress toward meeting
6 collection and recycling targets set by the Authority or
7 its share of CED returns in addition to a share of orphan
8 products.

9 (6) Timeline, including startup and implementation,
10 with associated progress milestones with anticipated
11 results.

12 (7) A public information campaign, complementary to,
13 and designed in conjunction with, the primary
14 retailer-driven campaign described in Section 65 of this
15 Act, to promote the recycling of electronic products and
16 proper end-of-life management of the products by the final
17 users.

18 The Authority shall count the collection of a single CED as
19 2 CEDs by weight when that item is donated free of charge for
20 reuse to the Illinois State Board of Education, or to any
21 not-for-profit corporation recognized under Section 501(c)(3)
22 of the Internal Revenue Code, whose principal mission is to
23 assist low-income children or families living in Illinois. To
24 qualify for the donation reuse credit under this Section,
25 manufacturers must ensure the delivery of electronic equipment
26 that: (a) is no older than 6 years old; (b) is in full working

1 condition with all component parts and all necessary
2 accessories; and (c) has been approved for donation by the
3 recipient in a writing specifying the disposition of the
4 donation.

5 (b) By February 1, 2010, and by February 1 of each
6 subsequent program year, a manufacturer qualifying for the
7 self-recycling option shall file an annual report with the
8 Authority including the following:

9 (1) Total weight of CEDs collected and recycled the
10 previous year;

11 (2) The results of an auditable, statistically
12 significant sampling of CEDs collected by the manufacturer
13 or group of manufacturers during the previous program year.
14 The sampling information reported shall consist of a list
15 of brands of CEDs and the weight of CEDs that are
16 identified for each brand;

17 (3) The total weight of CEDs, including orphan devices,
18 collected by the manufacturer or group of manufacturers
19 during the previous program year and documentation
20 verifying collection and recycling of such devices;

21 (4) Total weight of eligible equipment donated for
22 reuse to eligible organizations; and

23 (5) An evaluation of the existing infrastructure to
24 fulfill the manufacturer's collection and recycling
25 responsibilities.

1 Section 55. Retailer responsibilities. Retailers shall
2 be the primary source of information about end-of-life options
3 to electronics consumers. As such, retailers shall be charged
4 with:

5 (1) posting any educational materials provided by the
6 corporation in publicly accessible areas of their stores;

7 (2) posting any educational materials provided by the
8 corporation on the primary Web page describing products for
9 sale either in stores or via the Internet; and

10 (3) training all employees, whether at stores or
11 available by telephone or Internet, to answer consumer
12 questions about end-of-life options.

13 If a manufacturer engages in any retail sales of its own
14 products, whether through the Internet, catalogs, or other
15 means, the manufacturer is responsible for fulfilling the
16 retailer responsibilities as defined in this Section.

17 The Authority shall on a periodic basis perform unannounced
18 audits on retailer locations, Websites, or both to ensure that
19 all information provided by the Authority has been posted
20 according to the requirements of this Section.

21 Section 60. Landfill ban. Three years after the effective
22 date of this Act, it is illegal for any person to dispose of
23 any CED into a landfill, or by incineration, in this State.

24 Section 65. Program operational standards. All recyclers

1 and brokers participating in the Authority's plan, or any
2 manufacturer qualifying for self-recycling as described in
3 Section 50 of this Act, must ensure that collection, reuse, and
4 recycling efforts are conducted in a manner that is in
5 compliance with all applicable federal, State, and local laws,
6 regulations, and ordinances, and must ensure that CEDs are not
7 exported for disposal in a manner that poses a risk to the
8 public health or the environment. Specifically, recyclers and
9 brokers shall:

10 (1) Guarantee that all data stored on CEDs designated
11 for reuse under Section 50 of this Act, or for export under
12 paragraph 2 of this Section, have been wiped following
13 protocols defined in DOD 5220.22-M. Furthermore, guarantee
14 that any data on CEDs intended for recycling will either be
15 rendered unrecoverable by the recycling process or have
16 been wiped following protocols defined in DOD 5220.22-M
17 prior to the recycling process. The Authority shall review
18 these protocols on an annual basis and adjust them if
19 necessary.

20 (2) Consistent with the guidelines of the U.S.
21 Environmental Protection Agency Plug-in Partner campaign,
22 ensure compliance with any applicable requirements of the
23 United States, as well as applicable requirements of
24 importing and transit countries. Recyclers must be aware of
25 the Basel Convention, to which the United States has signed
26 but has not ratified. Nonetheless, recyclers, downstream

1 recyclers, and brokers must be knowledgeable of the Basel
2 Convention requirements that could affect them, as
3 implemented by the laws of importing and transit countries.
4 In addition, the importing and transit countries may have
5 other laws and regulations that could affect United States
6 exporters and their transactions. Until such time as the
7 United States becomes a party to the Basel Convention, no
8 country that is a party to the Basel Convention but not a
9 member of the Organization for Economic Cooperation and
10 Development may legally accept hazardous waste (and thus
11 CEDs because of the Basel Convention's definition of
12 hazardous waste) exported from the United States absent a
13 bilateral agreement between the governments under Article
14 11 of the Basel Convention.

15 (3) Prohibit CEDs to be sent to prisons for recycling
16 either directly or through intermediaries.

17 (4) Possess and maintain a documented Environmental
18 Health and Safety Management System and ensure that current
19 operations comply with the current Institute for Scrap
20 Recycling Industries, Inc. electronics recycling operating
21 practices policy manual. The Authority shall review this
22 manual on an annual basis for adequacy, and shall perform
23 announced or unannounced audits at its discretion.

24 (5) Commit to ensuring that the entire recycling chain,
25 including downstream recyclers, brokers, and recovery
26 operations such as smelters, are meeting all applicable

1 environmental and health regulations. In addition, every
2 effort shall be made to make use of only those facilities
3 (e.g. smelters) that provide the most efficient and least
4 polluting recovery services available globally.

5 (6) Agree to provide visible tracking of CEDs
6 throughout the product recycling chain. The tracking
7 information should show the final disposition of all
8 hazardous waste materials. If there is a concern about
9 trade secrets, an independent auditor acceptable to
10 parties concerned may be used to verify compliance.

11 Section 70. Relation to federal law. This Act is intended
12 to govern all aspects of the collection and recycling of CEDs
13 as those terms are defined in this Act. Upon the implementation
14 of a national program acceptable to the General Assembly to
15 collect, recycle, or both, CEDs, the provisions of this Act
16 shall sunset within the time frame determined by federal law.

17 Section 999. Effective date. This Act takes effect upon
18 becoming law. Sections 1, 20, and 999 apply and are operative
19 beginning on the effective date. All other Sections apply and
20 are operative beginning January 1, 2008.